



TO: Mayor and Councilmembers

FROM: Vyto Adomaitis, Neighborhood Services and Public Safety Director

CONTACT: Jaime A. Valdez, Senior Project Manager

SUBJECT: Old Town Goleta Property and Business Improvement District

RECOMMENDATION:

Consider authorizing the City Manager to enter into a Professional Services Agreement with Civitas Advisors, Inc. for legal and consulting services for the Old Town Goleta Property and Business Improvement District Formation Project in an amount not to exceed \$25,000 with the term of agreement to September 30, 2019 (Attachment 1).

BACKGROUND:

On December 29, 2011, the California Supreme Court issued an opinion in California Redevelopment Association v. Matosantos, which upheld Assembly Bill 1X 26 requiring the dissolution of redevelopment agencies (RDAs).

With the ensuing dissolution of Goleta's RDA there has been an on-going struggle to find funding for revitalizing Old Town. The City Council appropriated monies in the FY 2016-17 Budget to explore Business Improvement Districts and other "post-RDA" approaches such as Infrastructure Financing Districts (IFDs), Enhanced Infrastructure Financing Districts (EIFDs), and Community Revitalization and Investment Authorities (CRIAs). Staff analyzed the IFD, EIFD, and CRIA options but funding for those mechanisms are contingent on the willingness of Taxing Entities (such as the County, Fire Protection District, Goleta Sanitary District) to electively give up a portion of their revenues in the form of tax increment.

One of the largest previously available sources for tax increment—school districts—are now excluded from participating, meaning school districts no longer have to give up their share of revenues. This has the effect of making the formation of IFDs, EIFDs, and CRIAs less sought after. Moreover, IFDs, EIFDs, and CRIAs cannot finance routine maintenance, repair work, or costs of ongoing operation or services.

Conversely, Business Improvement Districts (BIDs) are not funded by tax increment and are instead funded by assessments paid by property owners in the case of a Property Business Improvement District (PBID) or business owners (tenants) in the case of a

Business-based Business Improvement District (BBID). BID funds can also finance routine maintenance, repair work, or costs of ongoing operations or services.

On December 10, 2018, the Economic Development and Revitalization (EDRC) Standing Committee met to discuss the potential of Property and Business Improvement District (PBIDs). A representative from Civitas Advisors, Inc. provided a presentation on PBIDs, including what they are, types that exist, how they function, services and benefits offered, examples (including one in Ventura and one in Oxnard), the City's role, governance and annual reports, as well as the steps to formation and timelines.

DISCUSSION:

A BID is a financing mechanism that is used to provide revenue for a variety of local improvements and services that enhance, not replace, existing municipal services. In California, there are several types of BIDs, including:

- **Property-based business improvement districts (PBID)** that allow for an assessment on real property and the subject of this staff report.
- **Business-based business improvement districts (BBID)** that create an assessment paid by business owners.
- **Tourism-based business improvement districts (TBID)** that allow for an assessment on hospitality and tourism related businesses.

Each of the preceding types of BIDs have its own advantages, disadvantages and legal basis. In all cases, common BID service options include:

- Maintenance: BIDs support maintenance services over and above those provided by local government, including frequent sidewalk sweeping, trash and debris removal, periodic power washing of sidewalks and immediate removal of graffiti from buildings and public amenities.
- Security: BIDs finance extra security to augment services from local police departments. Types of security services range from conventional security patrols to "ambassadors" that have extensive customer service training to help customers navigate through a business district.
- Marketing and Promotions: Marketing programs aim to improve the overall image of a business district through collaborative promotional strategies, undertaking market research and working with the media.
- Special Events: Special events reinforce the business district's drawing power as a destination, often targeting consumer markets that typically underutilize it. Many BIDs provide resources to manage a yearly events calendar that maintains an active schedule of lively attractions.
- Parking and Transportation: BIDs often support the management and/or expansion of the parking supply within a business district, including validation

programs, management of municipal garages, sponsorship of local shuttles and advocacy to implement regional transit.

- Economic Development: Many BIDs finance services to attract jobs and investment to business districts, including undertaking market analysis, developing data bases and structuring public/private financing for redevelopment projects.
- Tourism Promotion: In California, BIDs are increasingly being used to supplement local and regional tourism promotion programs to attract visitors to attractions, hotels and other hospitality related businesses.
- Human Services: BIDs are becoming active partners with human service agencies to help address the issues of the homeless and other street populations.
- Capital Improvements: BID-supported improvement options include visible amenities such as street lights, benches, kiosks and public art. BIDs can have bonding capabilities that allow for ambitious public/private capital improvement programs.

It is important to note that PBIDs do not direct development projects. It is a funding model that generates money to be leveraged to provide services to benefit the assessment payor. PBIDs are developed in downtown areas, commercial warehouse districts, Old Town and Main Streets. Their primary motivator is usually not tourism development but a clean and safe district that property owners, business owners, employees, and customers feel comfortable conducting business.

Secondary for PBIDs is marketing, brand development, and placemaking to attract more customers into the district. Most of the time, customers are locals. There is a large demand for Old Towns and Main Streets to market their districts locally to keep business operating. Most PBIDs also do not have the budgets to promote to out of town visitors. This is the role of the destination marketing organization whose strive to attract overnight visitors. However, PBIDs may want to assist in a local marketing campaign because it benefits property owners by keeping tenants in their buildings. Loss of business is a loss of a tenant to property owners.

Property owners, as the assessment payers in a PBID, play a pivotal role in the formation process. It is estimated that approximately 25% of businesses operating in Old Town also own the properties their businesses occupy.

A description of a PBID is included with this staff report as Attachment 2. A description of how PBIDs are formed is included as Attachment 3. A representative from Civitas will also be in attendance during the discussion of this agenda item to provide an overview and answer questions.

The Goleta Chamber of Commerce (Chamber)

The Chamber has begun the process to form a PBID in Old Town Goleta. The Chamber has shared the idea of pursuing a PBID with the Old Town Business Committee, a group composed of businesses, property owners, residents and community members to discuss issues in Old Town related to businesses and improving the area. The Chamber has secured \$31,000 to pay a consultant (Civitas) to assist with the PBID formation effort. Civitas' fees for the PBID formation project total \$56,000. The Chamber is now requesting the City to match the Chamber's funding, in the amount of \$25,000, to enable the Chamber to hire Civitas.

While the Chamber has initiated the effort to form a PBID by engaging in discussions with Civitas as to what a PBID *could* look like, the formation process has not yet occurred. There have only been preliminary discussions at a conceptual level of what kinds of assessments might be pursued and possible activities taken on should a PBID form. It is not predetermined. The formation process depends heavily on outreach and consensus building that takes place through meetings and focus groups which eventually inform how the PBID would operate for the intended area. In short, the formation process determines what the PBID will be and how it will operate, if at all.

PBID Formation Process for Old Town

Once funding for the consultant is secured, the Chamber will contract with Civitas to assist with the PBID formation process. The City Council will have an opportunity to evaluate and consider the PBID parameters during the petition and ballot process (Spring 2019). The City Council is not being asked to approve formation of the PBID at this time.

There are some ideas the Chamber has for use of funds, but the consensus building around the proposed services still needs to take place. Consensus building is part of the agreement with Civitas to finalize those parameters with the Chamber through one-on-one and round tables during February and March. Nothing will be finalized until there is a final management district plan, the 50%+1 in weighted petitions signed is obtained, and an affirmative vote during the Prop 218 ballot during the hearing process is reached. Since the City is proposed to be in the boundaries, City Council will have to approve and give the City Manager direction on signing the petition and voting yes or no on the ballot to approve the proposed PBID.

Analysis of PBIDs Success & Failures

The success of a PBID is contingent on the management of funds by the stakeholders. Successful PBID Owners' Associations have strong relationships with property and business owners within the district and are continuously communicating the progress of the services and programs supported with PBID funding.

The formation of a PBID does not come without challenges. The project takes a considerable amount of time, energy, and resources to ensure a successful outcome.

While Civitas tries to avoid project failures, it has seen PBIDs fail to form because the project lacked a strong and dedicated steering committee. Civitas has also seen PBIDs fail to form because they did not have the support of the city because the formation of a PBID requires an investment from the city. City of Goleta staff will be required to assist in the formation of the PBID through multiple steps in the project. Staff will review the property owner information and data received from the County; review, provide feedback, and approve all the legal documents required to establish the district; and facilitate the public hearing and Prop 218 ballot initiative.

Civitas will work with the City and Chamber during each step of the project to provide guidance and best practices to ensure City staff time on the project does not negatively impact other job responsibilities. PBID formations are at their core a private-public partnership that creates a funding mechanism to improve the commercial activity through specific services in a set boundary.

To date, Civitas staff has no knowledge of a PBID that has failed to renew based on property owner satisfaction.

PBIDs from Comparable Cities

Downtown Oxnard PBID

The Oxnard Downtown Management District (ODMD) was initially formed in 2001, under the PBID Law of 1994 (94 Law) to promote enhanced economic revitalization and physical maintenance of businesses within the district. Services provided by the ODMD Owners' Association, Oxnard Downtown Management District Inc., include maintenance, security, business development, and beautification. The ODMD was renewed for a five (5) year term ending in December 2019. The first-year budget was projected to be approximately \$454,095, with the assessment rate as follows:

LAND AREA RATE	BUILDING AREA RATE	STREET FRONTAGE RATE
\$350.80 +2.7615¢/Sq. Ft	12.138¢/Sq. Ft	\$4.0635 Per Linear Foot

The ODMD has had significant success since its formation in 2001. The ODMD has been renewed three (3) times, maintaining support of assessed property owners for over fifteen (15) years. Since its last renewal, the ODMD has seen an increase in their yearly budget by nearly \$20,000. The ODMD continues to provide vital services to its community, including: a daily clean team, tracking and providing litter pickup, graffiti removal, sidewalk pressure washing, abating illegal dumping, weed removal and other special projects; district safety officers who patrol the district between sixteen (16) to twenty (20) hours per day; public space enhancements (such as improved streetscapes, new planters, etc.); promotion of arts initiatives; increasing marketing efforts (website improvements, social media promotion, etc.) to promote Oxnard Downtown and other services.

Downtown Ventura PBID

The Downtown Ventura Business Improvement District (DVBID) was formed in 2009 under the 94 Law to promote Downtown Ventura as a vibrant commercial and cultural destination. Services provided by the DVBID Owners' Association, Downtown Ventura Partners, include clean and safe programs, economic development, and marketing and communication programs. The DVBID was renewed for a for a five (5) year term ending in December 2019. The first-year assessment collections were projected to reach \$462,083, with the following assessment rate:

	Core Zone	Non-Core Zone	Mission Zone
Square Foot Assessment Rate	\$0.0846	\$0.0508	\$0.0188

The DVBID has achieved significant accomplishments for its community since its formation. The DVBID was renewed in 2015 with eighty-five percent (85%) of property and business owners in favor of renewal. In addition to PBID assessment collections, the Downtown Ventura Partners received over \$740,000 in additional private funding to provide vital district services. DVBID actively maintains three main committees; Promotions, Streetscape (Design, Clean & Safe), and Economic Restructuring. These committees take active roles in reaching the DVBID goals which include promoting a positive image of Downtown Ventura to increase community pride and improve consumer and investor confidence, strengthen DVBID's economic assets, and creating a safe, inviting environment for visitors.

Safeguards

If a PBID were approved for Old Town, annually the City Council would approve a forward-looking report that outlines any changes to the PBID budget and services (that are possible within the Management District Plan). This is an opportunity for Council to "safeguard" the funds are being spent appropriately and within the boundaries of the management district plan they approve. Additionally, any physical improvements to public property would require consent and partnership with the City. The proposed Old Town PBID does not currently foresee pursuing physical improvements being a service the Chamber plans to consider. The services are clean and safe activities; marketing, business development, and economic development activities; and parking solutions have been discussed.

The property owners, through the PBID, do not have open-ended authority. They are required to spend the funds as outlined in the plan with oversight by Council. During the project, Civitas will work with City staff and be open to councilmember involvement so they can provide feedback. Exploration of the governance structure of the potential PBID can be discussed when consensus building takes place on the required district parameters.

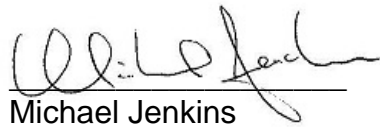
FISCAL IMPACTS:

The Economic Development Program has a \$25,000 line-item available in the FY 2018-19 Budget for BID & Old Town professional services in Account No. 101-5-6400-500 to support this agreement. No additional appropriation is necessary.

ALTERNATIVES:

The Council could choose not to provide funding. Failing to secure funding may result in delay in the formation of a PBID in Old Town.

Legal Review By:



Michael Jenkins
City Attorney

Approved By:



Michelle Greene
City Manager

ATTACHMENTS:

1. Professional Services Agreement with Civitas Advisors, Inc. to provide legal and consulting services for the Old Town Goleta Property and Business Improvement District Formation Project.
2. Property and Business Improvement District Description Summary.
3. Property and Business Improvement District Formation Summary.

ATTACHMENT 1

Professional Services Agreement with Civitas Advisors, Inc. to provide legal and consulting services for the Old Town Goleta Property and Business Improvement District Formation Project

Project Name: (Old Town Goleta Property and Business Improvement District Formation)

**AGREEMENT FOR PROFESSIONAL SERVICES
BETWEEN THE CITY OF GOLETA
AND
CIVITAS ADVISORS, INC.**

This AGREEMENT FOR PROFESSIONAL SERVICES (herein referred to as "AGREEMENT") is made and entered into this _____ day of _____, 20____, by and between the **CITY OF GOLETA**, a municipal corporation (herein referred to as "CITY"), and Civitas Advisors, Inc., a California corporation (herein referred to as "CONSULTANT").

WHEREAS, the CITY has a need for professional legal and consulting services for the Old Town Goleta Property and Business Improvement District Formation Project; and

WHEREAS, the CITY does not have the personnel able and/or available to perform the services required under this AGREEMENT, and therefore, the CITY desires to contract for professional services to accomplish this work; and

WHEREAS, the CONSULTANT was selected based on expertise of Property and Business Improvement District formations; and

WHEREAS, the CITY procured these services in compliance with Goleta Municipal Code Section 3.05.240; and

WHEREAS, the City Council, on this _____ day of _____, 20____, approved this AGREEMENT and authorized the City Manager to execute the AGREEMENT.

CITY and CONSULTANT agree as follows:

1. RETENTION AS CONSULTANT

CITY hereby retains CONSULTANT, and CONSULTANT hereby accepts such engagement, to perform the services described in Section 2. CONSULTANT warrants it has the qualifications, experience, and facilities to properly and timely perform said services.

2. DESCRIPTION OF SERVICES

The services to be performed by CONSULTANT are as follows:

Professional legal and consulting services in conjunction with formation of the Old Town Goleta Property and Business Improvement District. Services shall generally include working with the Goleta Chamber of Commerce to guide an owner outreach program, preparing and manipulating customized

maps and databases, determining a district service plan and budget, preparing and revising documents, and managing the City Council hearing and ballot procedures as more particularly set forth in the Scope of Work, attached as Exhibit "A," and incorporated herein.

CONSULTANT shall deliver to CITY the deliverables defined in Exhibit "A."

3. COMPENSATION AND PAYMENT

(a) Maximum and Rate. The total compensation payable to CONSULTANT by CITY for the services under this AGREEMENT **SHALL NOT EXCEED** the sum of \$25,000.00 (herein "not to exceed amount"), and shall be earned as the work progresses on the following basis:

Monthly fixed rates to CONSULTANT as set forth in CONSULTANT's Schedule of Fees marked Exhibit "B," attached and incorporated herein. The rates set forth in that exhibit shall be binding upon CONSULTANT until September 30, 2019, after which any change in said rates must be approved in writing by CITY's Project Manager as described in Section 5 (CITY is to be given 60 days notice of any rate increase request), provided the not to exceed amount is the total compensation due CONSULTANT for all work described under this AGREEMENT.

(b) Payment. CONSULTANT shall provide CITY with written verification of the actual compensation earned, which written verification shall be in a form satisfactory to CITY's Project Manager, as described in Section 5. Invoices shall be made no more frequently than on a monthly basis, and describe the work performed (including a list of hours worked by personnel classification). All payments shall be made within 30 days after CITY's approval of the invoice.

(c) Additional CONSULTANT Professional Fees, Costs, Expenses, and Engineer Related Costs. CITY shall not be responsible for any professional fees, costs, and expenses of CONSULTANT or costs related to the required Engineer's Report in excess of CONSULTANT's Schedule of Fees marked Exhibit "B," attached and incorporated herein. All professional fees, costs, and expenses of CONSULTANT in excess of the Schedule of Fees marked Exhibit "B" and costs related to the required Engineer's Report shall be the responsibility of the Goleta Chamber of Commerce as set forth in the agreement between CONSULTANT and the Goleta Chamber of Commerce.

4. EXTRA SERVICES

CITY shall pay CONSULTANT for those CITY authorized extra services, not reasonably included within the services described in Section 2, as mutually agreed to writing in advance of the incurrence of extra services by CONSULTANT. Unless CITY and CONSULTANT have agreed in writing before the performance of extra services, no liability and no right to claim compensation for such extra services or expenses shall exist. The applicable hourly rates for extra services shall be at the hourly rates set forth in the

compensation exhibit. Any compensation for extra services shall be part of the total compensation and shall not increase the not to exceed amount identified in Section 3.

5. CITY PROJECT MANAGER AND SERVICES BY CITY

The services to be performed by CONSULTANT shall be accomplished under the general direction of, and coordinate with, CITY's "Project Manager", as that staff person is designated by CITY from time to time, and who presently is Vyto Adomaitis. Project Manager shall have the authority to act on behalf of the CITY in administering this AGREEMENT but shall not be authorized to extend the term of the AGREEMENT or increase the not to exceed amount.

6. TERM, PROGRESS AND COMPLETION

The term of this AGREEMENT is from the date first written above to September 30, 2019, unless term of this AGREEMENT is extended, or the AGREEMENT is terminated as provided for herein.

CONSULTANT shall not commence work on the services to be performed until (i) CONSULTANT furnishes proof of insurance as required by Section 10 below, (ii) CITY gives written authorization to proceed with the work provided by CITY's Project Manager, and (iii) the Goleta Chamber of Commerce executes an agreement with CONSULTANT related to the Old Town Goleta Property and Business Improvement District Formation project. The agreement between the Goleta Chamber of Commerce and CONSULTANT shall remain in full force and effect during the term of this Agreement as a condition of CONSULTANT performing work under this Agreement.

7. OWNERSHIP OF DOCUMENTS

All drawings, designs, data, photographs, reports and other documentation (other than CONSULTANT's drafts, notes and internal memorandum), including duplication of same prepared by CONSULTANT in the performance of these services, are the property of CITY. CITY shall be entitled to immediate possession of the same upon completion of the work under this AGREEMENT, or at any earlier or later time when requested by CITY. CITY agrees to hold CONSULTANT harmless from all damages, claims, expenses, and losses arising out of any reuse of the plans and specifications for purposes other than those described in this AGREEMENT, unless written authorization of CONSULTANT is first obtained.

8. PERSONAL SERVICES/NO ASSIGNMENT/SUBCONTRACTOR

This AGREEMENT is for professional services which are personal to CITY. Nichole Farley and Gina Reed are deemed to be specially experienced and are key members of CONSULTANT's firm, and shall be directly involved in the performance of this work. These key persons shall communicate with, and periodically report to, CITY on the progress of the work. Should any such individual be removed from assisting in this contracted work for any reason, CITY may terminate this AGREEMENT. This

AGREEMENT may not be assigned or subcontracted without the City Manager's prior written consent.

9. HOLD HARMLESS AND INDEMNITY

(a) **Hold Harmless for CONSULTANT's Damages.** CONSULTANT holds CITY, its elected officials, officers, agents, and employees, harmless from all of CONSULTANT's claims, demands, lawsuits, judgments, damages, losses, injuries or liability to CONSULTANT, to CONSULTANT's employees, to CONSULTANT's contractors or subcontractors, or to the owners of CONSULTANT's firm, which damages, losses, injuries or liability occur during the work required under this AGREEMENT, or occur while CONSULTANT is on CITY property, or which are connected, directly or indirectly, with CONSULTANT's performance of any activity or work required under this AGREEMENT.

(b) **Defense and Indemnity of Third Party Claims/Liability.** CONSULTANT shall investigate, defend, and indemnify CITY, its elected officials, officers, agents, and employees, from any claims, lawsuits, demands, judgments, and all liability including, but not limited to, monetary or property damage, lost profit, personal injury, wrongful death, general liability, automobile, infringement of copyright/patent/trademark, or professional errors and omissions arising out of, directly or indirectly, an error, negligence, or omission of CONSULTANT or any of CONSULTANT's officers, agents, employees, representatives, subconsultants, or subcontractors, or the willful misconduct of CONSULTANT or any of CONSULTANT's officers, agents, employees, representatives, subconsultants, or subcontractors, in performing the services described in, or normally associated with, this type of contracted work. The duty to defend shall include any suits or actions concerning any activity, product or work required under this AGREEMENT, and also include the payment of all court costs, attorney fees, expert witness costs, investigation costs, claims adjusting costs and any other costs required for and related thereto.

(c) **No Waiver.** CITY does not waive, nor shall be deemed to have waived, any indemnity, defense or hold harmless rights under this section because of the acceptance by CITY, or the deposit with CITY, of any insurance certificates or policies described in Section 10.

10. INSURANCE

CONSULTANT shall, at CONSULTANT's sole cost and expense, provide insurance as described herein. All insurance is to be placed with insurers authorized to do business in the State of California with an A.M. Best and Company rating of A- or better, Class VII or better, or as otherwise approved by CITY.

Insurance shall include the following (or broader) coverage:

City of Goleta
NSPS Department and Civitas Advisors
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- a) Insurance Services Office Commercial Liability coverage "occurrence" form CG 00 01 or its exact equivalent with an edition date prior to 2004 and with minimum limits of \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
- b) Insurance Services Office form number CA 00 01 or equivalent covering Automobile Liability, including hired and non-owned automobile liability with a minimum limit of \$1,000,000 per accident. If the Service Provider owns no vehicles, this requirement may be satisfied by a non-owned and hired auto endorsement to Service Provider's commercial general liability policy.
- c) Workers' Compensation insurance complying with California worker's compensation laws, including statutory limits for workers' compensation and an Employer's Liability limit of \$1,000,000 per accident or disease.
- d) Professional liability insurance that covers the services to be performed in connection with this agreement, in the minimum amount of \$1,000,000 per claim and in the aggregate.

Liability insurance policies required to be provided by CONSULTANT hereunder shall contain or be endorsed to contain the following provisions:

- a) CITY, its employees, officials, agents and member agencies shall be covered as additional insureds. Coverage shall apply to any and all liability arising out of the work performed or related to the contract. Additional insured status under the general liability requirement shall be provided on Insurance Services Office Form CG 20 10, with an edition date prior to 2004, or its equivalent. Additional insured status for completed operations shall be provided either in the additional insured form or through another endorsement such as CG 20 37, or its equivalent.
- b) General and automobile liability insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability. Coverage will not be limited to CITY's vicarious liability.
- c) Professional liability insurance policies inception date, continuity date, or retroactive date must be before the effective date of this agreement. CONSULTANT agrees to maintain continuous coverage through a period no less than three years after completion of the services required by this agreement.
- d) Liability coverage shall be primary and non-contributing with any insurance maintained by CITY.

- e) Evidence of coverage (including the workers' compensation and employer's liability policies) shall provide that coverage shall not be suspended, voided, canceled or reduced in coverage or in limits except after 30 days' prior written notice has been given to CITY. Such provision shall not include any limitation of liability of the insurer for failure to provide such notice.
- f) No liability insurance coverage provided to comply with this AGREEMENT shall prohibit CONSULTANT, or CONSULTANT's employees, or agents, from waiving the right of recovery prior to a loss. CONSULTANT waives its right of recovery against CITY.
- g) CONSULTANT agrees to deposit with CITY within fifteen days of Notice to Proceed of the Contract certificates of insurance and required endorsements.
- h) There shall be no recourse against CITY for payment of premiums or other amounts with respect to the insurance required to be provided by CONSULTANT hereunder. Any failure, actual or alleged, on the part of CITY to monitor compliance with these requirements will not be deemed as a waiver of any rights on the part of CITY. CITY has no additional obligations by virtue of requiring the insurance set forth herein. In the event any policy of insurance required under this AGREEMENT does not comply with these requirements or is canceled and not replaced, CITY has the right but not the duty to obtain the insurance it deems necessary and any premium paid by CITY will be promptly reimbursed by CONSULTANT or CITY will withhold amounts sufficient to pay premium from CONSULTANT payments.
- i) CONSULTANT agrees to provide immediate notice to CITY of any claim or loss against CONSULTANT arising out of the work performed under this AGREEMENT. CITY assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve CITY.

11. RELATIONSHIP OF CONSULTANT TO CITY

The relationship of the CONSULTANT to CITY shall be that of an independent contractor and that in no event shall CONSULTANT be considered an officer, agent, servant or employee of CITY. CONSULTANT shall be solely responsible for any workers compensation insurance, withholding taxes, unemployment insurance, and any other employer obligations associated with the described work.

12. CORRECTIONS

In addition to the above indemnification obligations, CONSULTANT shall correct, at its expense, all errors in the work that may be disclosed during CITY's review of CONSULTANT's report or plans. Should CONSULTANT fail to make such correction in

a reasonably timely manner, such correction shall be made by CITY, and the cost thereof shall be charged to CONSULTANT or withheld from any funds due to CONSULTANT hereunder.

13. TERMINATION BY CITY

CITY, by notifying CONSULTANT in writing, may upon 10 calendar days notice, terminate without cause any portion or all of the services agreed to be performed under this AGREEMENT. If termination is for cause, no notice period need be given. In the event of termination, CONSULTANT shall have the right and obligation to immediately assemble work in progress for the purpose of closing out the job. All compensation for actual work performed and charges outstanding at the time of termination shall be payable by CITY to CONSULTANT within 30 days following submission of a final statement by CONSULTANT unless termination is for cause. In such event, CONSULTANT shall be compensated only to the extent required by law.

14. ACCEPTANCE OF FINAL PAYMENT CONSTITUTES RELEASE

The acceptance by CONSULTANT of the final payment made under this AGREEMENT shall operate as and be a release of CITY from all claims and liabilities for compensation to CONSULTANT for anything done, furnished, or relating to CONSULTANT'S work or services. Acceptance of payment shall be any negotiation of CITY's check or the failure to make a written extra compensation claim within 10 calendar days of the receipt of that check. However, approval or payment by CITY shall not constitute, nor be deemed, a release of the responsibility and liability of CONSULTANT, its employees, subcontractors, agents and CONSULTANTS for the accuracy and competency of the information provided and/or work performed; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by CITY for any defect or error in the work prepared by CONSULTANT, its employees, subcontractors, agents and consultants.

15. AUDIT OF RECORDS

At any time during normal business hours and as often as it may deem necessary, CONSULTANT shall make available to a representative of CITY for examination of all its records with respect to all matters covered by this AGREEMENT and will permit CITY to audit, examine and/or reproduce such records. CONSULTANT will retain such financial records, time sheets, work progress reports, invoices, bills and project records for at least two years after termination or final payment under this AGREEMENT.

16. WAIVER; REMEDIES CUMULATIVE

Failure by a party to insist upon the strict performance of any of the provisions of this AGREEMENT by the other party, irrespective of the length of time for which such failure continues, shall not constitute a waiver of such party's right to demand strict compliance by such other party in the future. No waiver by a party of a default or breach of the other party shall be effective or binding upon such party unless made in writing by

such party, and no such waiver shall be implied from any omissions by a party to take any action with respect to such default or breach. No express written waiver of a specified default or breach shall affect any other default or breach, or cover any other period of time, other than any default or breach and/or period of time specified. All of the remedies permitted or available to a party under this AGREEMENT, or at law or in equity, shall be cumulative and alternative, and invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right of remedy.

17. CONFLICT OF INTEREST

CONSULTANT is unaware of any CITY employee or official that has a financial interest in CONSULTANT'S business. During the term of this AGREEMENT and/or as a result of being awarded this AGREEMENT, CONSULTANT shall not offer, encourage or accept any financial interest in CONSULTANT'S business by any CITY employee or official.

18. CONSTRUCTION OF LANGUAGE OF AGREEMENT

The provisions of this AGREEMENT shall be construed as a whole according to its common meaning of purpose of providing a public benefit and not strictly for or against any party. It shall be construed consistent with the provisions hereof, in order to achieve the objectives and purposes of the parties. Wherever required by the context, the singular shall include the plural and vice versa, and the masculine gender shall include the feminine or neutral genders or vice versa.

19. MITIGATION OF DAMAGES

In all situations arising out of this AGREEMENT, the parties shall attempt to avoid and minimize the damages resulting from the conduct of the other party.

20. GOVERNING LAW

This AGREEMENT, and the rights and obligations of the parties, shall be governed and interpreted in accordance with the laws of the State of California. Should litigation occur, venue shall be in Superior Court of Santa Barbara County.

21. TAXPAYER IDENTIFICATION NUMBER

CONSULTANT shall provide CITY with a complete Request for Taxpayer Identification Number and Certification, Form W-9 (Rev. 12-87), as issued by the Internal Revenue Service.

22. NON-APPROPRIATION OF FUNDS

Payments due and payable to CONSULTANT for current services are within the current budget and within an available, unexhausted and unencumbered appropriation of

CITY funds. In the event CITY has not appropriated sufficient funds for payment of CONSULTANT services beyond the current fiscal year, this AGREEMENT shall cover only those costs incurred up to the conclusion of the current fiscal year.

23. MODIFICATION OF AGREEMENT

The tasks described in this AGREEMENT and all other terms of this AGREEMENT may be modified only upon mutual written consent of CITY and CONSULTANT.

24. USE OF THE TERM "CITY"

Reference to "CITY" in this AGREEMENT includes City Manager or any authorized representative acting on behalf of CITY.

25. PERMITS AND LICENSES

CONSULTANT, at its sole expense, shall obtain and maintain during the term of this AGREEMENT, all appropriate permits, licenses, and certificates that may be required in connection with the performance of services under this AGREEMENT.

26. CAPTIONS

The captions or headings in this AGREEMENT are for convenience only and in no other way define, limit or describe the scope or intent of any provision or section of the AGREEMENT.

27. AUTHORIZATION

Each party has expressly authorized the execution of this AGREEMENT on its behalf and bind said party and its respective administrators, officers, directors, shareholders, divisions, subsidiaries, agents, employees, successors, assigns, principals, partners, joint venturers, insurance carriers and any others who may claim through it to this AGREEMENT.

28. ENTIRE AGREEMENT BETWEEN PARTIES

Except for CONSULTANT'S proposals and submitted representations for obtaining this AGREEMENT, this AGREEMENT supersedes any other agreements, either oral or in writing, between the parties hereto with respect to the rendering of services, and contains all of the covenants and agreements between the parties with respect to said services.

29. PARTIAL INVALIDITY

If any provision in this AGREEMENT is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

30. NOTICES

Any notice required to be given hereunder shall be deemed to have been given by depositing said notice in the United States mail, postage prepaid, and addressed as follows:

TO CITY: Attention: Michelle Greene, City Manager
City of Goleta
130 Cremona Drive, Suite B
Goleta, CA 93117

TO CONSULTANT: Attention: John Lambeth
Civitas Advisors, Inc.
1102 Corporate Way, Suite 140
Sacramento, CA 95831

31. COUNTERPARTS AND ELECTRONIC/FACSIMILE SIGNATURES

This Agreement may be executed in several counterparts, which may be facsimile or electronic copies. Each counterpart is fully effective as an original, and together constitutes one and the same instrument.

In concurrence and witness whereof, this AGREEMENT has been executed by the parties effective on the date and year first above written.

CITY OF GOLETA

CONSULTANT

Michelle Greene, City Manager

John Lambeth, President & CEO

ATTEST

Deborah Lopez, City Clerk

John Lambeth, Secretary

APPROVED AS TO FORM



Winnie Cai, Assistant City Attorney

EXHIBIT A – SCOPE OF WORK

Overview

Seven (7) steps are anticipated, in partnership with the Goleta Chamber of Commerce (“GCC”). The seven (7) project steps are described briefly below and in more detail on the following pages.

Step One: Project Initiation

The structure needed to carry out the project will be created in this step. CONSULTANT will work with GCC staff and property owners to identify their respective roles in the process. CONSULTANT will also begin gathering database information in this step.

Step Two: Owner Outreach and Meetings

Outreach efforts are undertaken in this step to connect with property owners and CITY officials to gain their support for the proposed District.

Step Three: Management District Plan Development

CONSULTANT will work with GCC staff and stakeholders to develop the Management District Plan, which will serve as the District’s governing document.

Step Four: Management District Plan Revision

CONSULTANT will submit the draft Management District Plan to the steering committee, stakeholders, and the CITY for review, and make changes as necessary.

Step Five: Petition Preparation

CONSULTANT will prepare the necessary petition and work with the CITY to ensure it is satisfactory.

Step Six: Petition Collection

CONSULTANT will guide the petition collection process and work with the steering committee to plan and execute a successful petition drive.

Step Seven: City Council Hearings and Ballot

Finally, CONSULTANT will guide the hearing and ballot process.

Step One: Project Initiation

This step will clearly identify the roles of each party in the formation process and develop the infrastructure that will lead to successful Old Town Goleta Property and Business Improvement District (OTGPBID) formation.

1.1 Develop Project Parameters

CONSULTANT will work with GCC staff and stakeholders to clarify project parameters. Assignments for CONSULTANT, GCC staff, and stakeholders will be established.

1.2 Establish Leadership

A steering committee including GCC staff and key stakeholders will be formed. CONSULTANT will work closely with the steering committee and provide the overall guidance needed to keep the project moving forward. The steering committee will eventually be responsible for conducting property owner outreach and leading the petition drive.

1.3 Update Database Development

The foundation of the District formation process is a thorough and accurate database. CONSULTANT will use GIS software and data to update and manipulate a complete database of District properties. The database will include variables like property owner name and mailing address and lot square footage. CONSULTANT and the Engineer will continue work on the database throughout the project.

1.4 Confirm Boundary Map

CONSULTANT will use GIS software to create a map of the District boundaries and any benefit zones. The map will be made available online via a smartphone / tablet application and website, for easy access to parcel information. Customized maps will be made to display information throughout the process, which may demonstrate property type, support level, or similar characteristics.

Step Two: Owner Outreach and Meetings

CONSULTANT proposes holding a series of meetings to reach out to property owners, stakeholders and civic leaders. The meetings will assess service priorities and the support level for the proposed District. Clarification of the CITY's participation in the District will also begin in this step.

2.1 Property Owner Meetings

CONSULTANT will conduct a series of one-on-one and group meetings with stakeholders. Each meeting will aim to attract stakeholders representing the many segments of properties within the District. The meetings will identify priorities for specific services, and the willingness of owners to pay for those services. The steering committee and GCC staff will participate in the meetings.

2.2 Property Owner Survey

Owner outreach may include mailed or online surveys to gauge owners' interest in forming a District and identify their priorities for services.

2.3 Draft Service Plan and Assessment Scenarios

Based on input from stakeholders, CONSULTANT will prepare a draft service plan. The draft will be used at owner and steering committee meetings, and revised throughout the outreach process based on feedback received. The service plan will include boundaries, assessment rate, budget, and services. CONSULTANT may present options for the assessment rate to the steering committee for review. The draft service plan will eventually become the basis of the Management District Plan.

2.4 Base Level of Services Negotiation

CONSULTANT will work with the CITY to clarify the base level of services the CITY will continue providing in the District. CONSULTANT will provide a model base level of services agreement, offer negotiation strategies, and assist in adopting the agreement as necessary.

Step Three: Management District Plan Development

Based upon input gathered from GCC staff and stakeholders, CONSULTANT will develop a draft Management District Plan.

3.1 Service Plan and Benefit Zones

Based upon previously obtained input, CONSULTANT will create a final service plan and budget incorporating any desired benefit zones.

3.2 Assessment Formula

CONSULTANT will work with the steering committee to finalize the assessment formula. This assessment information will be applied to the database to generate revenue estimates and individual parcel assessment amounts.

3.3 General and Special Benefit Analysis

Recent court cases have necessitated a thorough analysis, quantification, and separation of the special and general benefit created by the District's programs. CONSULTANT will work with the Engineer to conduct this analysis. To quantify the general benefit to the public, an intercept survey of visitors to the district may be conducted. CONSULTANT will draft the survey, and prepare survey guidelines and a deployment schedule. GCC will be responsible for survey deployment and verification.

To quantify the general benefit to parcels, the analysis will also include a review of parcels surrounding the District, which will be conducted by CONSULTANT and the Engineer.

3.4 Engineer's Report

Preparation of an Engineer's Report supporting the assessment is required. This proposal does not include the fees of a professional Engineer to prepare the report; however, CONSULTANT can recommend an engineer familiar with assessment districts. The Engineer will work with CONSULTANT on the special and general benefit analysis, review the recommend assessment formulas, and test their ability to spread benefits fairly and proportionally.

3.5 Draft Management District Plan

CONSULTANT will prepare a draft Management District Plan that complies with applicable laws and is a user-friendly education tool. The Plan will include:

- Summary
- District rationale and objectives
- Boundaries and benefit zones
- Service plan options and budgets
- Assessment methodology
- Engineer's Report
 - General benefit quantification
 - Special benefit proportionality
- Governance structure
- City base level of services, if applicable
- Rules, regulations, and term
- Exhibits including a map and list of parcels to be assessed

Step Four: Management District Plan Revision

The draft plan will be presented to GCC, the steering committee, stakeholders, and CITY staff. The Plan will be revised based on their input, and a final plan presented to the CITY Attorney for approval. The feasibility of forming the District will be evaluated throughout this step.

4.1 Plan Review

CONSULTANT will present the draft Plan to the steering committee for their review and input. CONSULTANT will review and discuss the Plan with the steering committee and address any questions or concerns that arise.

4.2 Consensus Plan

Based on steering committee input, CONSULTANT will draft a final consensus Plan. The Plan will be submitted to the CITY Attorney for review and approval. CONSULTANT will work with CITY staff to incorporate their comments and finalize the Plan. This step will include significant correspondence with staff via email and conference calls.

4.3 Engineer Review

Edits proposed by the CITY may require the Engineer to review the updated Plan. CONSULTANT will coordinate with the Engineer to ensure any edits meet their approval.

4.4 Final Plan

Based upon stakeholder and CITY input, CONSULTANT will prepare the final Management District Plan.

Step Five: Petition Preparation

The property owner petition drive requires extensive planning and organization.

5.1 Database Refinement

CONSULTANT will work closely with the steering committee to classify property owners according to their support or opposition to the District. To prepare for the petition drive, CONSULTANT will use the database to create property owner assessment sheets and customized maps. Each owner's percentage of influence on the petition drive will be calculated and included on the assessment sheets.

5.2 Develop Strategy and Timetable

CONSULTANT will work with the steering committee to develop a strategy and timetable for petition drive completion. The strategy will include defining individual roles in the petition drive. Throughout this process, the steering committee's involvement in the project is expected to grow – the steering committee will be primarily responsible for gathering signed petitions. The petition drive will be designed to secure sufficient petitions from owners classified as supportive, leaning towards supportive, or undecided.

5.3 Draft Petition and City Review

CONSULTANT will draft the petition and submit it to the CITY Attorney for review and approval.

5.4 Petition Packaging and Distribution

CONSULTANT will prepare electronic versions of the petition package for property owners, which will include a summary of the Management District Plan and the property owner's estimated assessment amount. CONSULTANT will provide the petitions in electronic format.

Step Six: Petition Collection

A successful petition drive requires a combination of persistence, organization and finesse. Management components include a launch event, weekly tracking, and meetings with property owners and the steering committee.

6.1 Launch Event

To initiate the petition drive, a launch event targeting key owners is recommended. The event can include ceremonial and actual petition signings, and brief presentations from key property owners, GCC, the steering committee, and other stakeholders.

6.2 Steering Committee Assignments

Members of the steering committee will drive the effort to secure signed petitions. CONSULTANT will provide guidance and advice to the steering committee throughout the petition collection process. CONSULTANT will track petitions returned and regularly report on progress towards the fifty percent (50%) goal. The steering committee will be expected to contact property owners and obtain their signed petitions.

6.3 Key Stakeholders

Based upon the amount each owner will pay and their estimated support for the District, CONSULTANT will help the steering committee identify key stakeholders for petition signatures.

6.4 Tracking and Collection

CONSULTANT will facilitate steering committee meetings and track progress towards meeting petition collection goals. Tracking forms and the database will be used to illustrate and share progress, and custom maps may be created to visually identify petition status.

Step Seven: City Hearings and Ballot Process

Once adequate petition support has been obtained, the CITY will conduct a hearing and ballot process pursuant to the California Constitution.

7.1 Ballot Development

CONSULTANT will draft the ballot for review by the CITY Attorney, and assist the CITY with preparing final ballot packages. The ballot packages will include a notice and instructions for completing and returning the ballot. CONSULTANT will provide all documents and mailing labels in electronic format; the CITY will be responsible for the actual mailing.

7.2 Resolution of Intention Hearing

CONSULTANT will draft the Resolution of Intention and work with the CITY Attorney to ensure it is satisfactory. CONSULTANT will attend the first hearing, wherein the CITY Council will consider adopting a Resolution of Intention to form the District. If desired, CONSULTANT will be prepared to make a presentation and/or answer questions at the hearing.

7.3 Ballot Tracking

CONSULTANT will provide advice and guidance to GCC in tracking ballots that are returned. CONSULTANT will assist in ensuring key property owners' ballots are returned and tracking the approximate support and opposition among the returned ballots. CONSULTANT recommends reaching out to key owners and ensuring their ballots are properly completed prior to submission.

7.4 Final Hearing

CONSULTANT will attend the final City hearing and be prepared to answer questions or make a presentation if necessary. CONSULTANT will also be available to observe or assist with final ballot tabulation.

EXHIBIT B – PROFESSIONAL FEES

Professional Fees

The CITY's portion of CONSULTANT's professional fees for the scope of work herein shall be \$25,000. CONSULTANT will send the City of Goleta a fixed monthly invoice for nine months in the amount of \$2,777.77.

Cost Assumptions and Assignment Guidelines

CONSULTANT has projected a specific amount of time for this project. It is assumed that the project will not exceed the budgeted time period. When CONSULTANT's services conclude, all unpaid charges will immediately become due and payable. The amount of professional fees (\$25,000) set forth in this agreement are a fixed amount for completion of the project within a maximum nine (9) month timeframe. The total amount of professional fees has been divided over the maximum nine (9) month timeframe to determine the monthly billing amount. If the project is successfully completed prior to the nine (9) month timeframe, the remaining balance of professional fees will be due and payable within thirty (30) days of project completion.

ATTACHMENT 2

Property and Business Improvement District Description Summary



Introduction to California Property & Business Improvement Districts

Property & business improvement districts are a stable funding source for organizations of property owners working to improve their business district. Owners within the district work together to make significant improvements, attract consumers and new businesses, and develop the area.

What does a PBID do?

PBIDs can have many functions, all of which are aimed at improving the district. A PBID's operations are determined by the property owners funding the PBID. PBID activities often include security services, clean up and maintenance services, capital and infrastructure improvement programs, marketing programs and many other significant progressive projects.

Who manages a PBID?

Typically a PBID is managed by a new non-profit corporation specifically formed to fill this role. The property owners forming the PBID decide who will manage the PBID and how. The PBID corporation is required to submit annual reports, ensuring accountability to assessed property owners.

How is a PBID Funded?

PBIDs are funded through an assessment on properties within the district. The amount of the assessment is determined by property owners at the formation of the district, within particular legal guidelines. Certain types of property can be exempt from all or part of the assessment if they do not benefit from district services. Funds raised through the assessment must be spent within the district for the benefit of the properties paying the assessment. Funds raised through a PBID cannot be diverted to government programs.

Why should I support forming a PBID?

Local and state governments are often unable to provide specialized services to meet an area's unique needs. Government programs are also subject to political and economic circumstances which can cause cuts to services. Establishing a PBID remedies this inconsistency by providing a secure, stable funding source for crucial services. PBID spending priorities and limits are established by property owners with intimate knowledge of and a vested interest in the particular needs of the district.

What are the advantages of a PBID?

- They provide a stable funding source for improvements and services
- They are designed, created and managed by those who pay the assessment
- Funds cannot be diverted for government programs
- They are customized to fit the unique needs of the district

ATTACHMENT 3

Property and Business Improvement District Formation Summary



Forming California Property & Business Improvement Districts

Under the Property and Business Improvement District Law of 1994, the PBID formation process can be divided into six steps.

1. Creation of Formation Resources

- Identify Steering Committee members
- Obtain information needed for database

2. Owner Outreach & Education

- Educate property owners about PBIDs via handouts and meetings
- Obtain input and support from property owners
- Hold focus groups and circulate surveys as needed

3. District Plan Development

- Identify district boundaries and included properties
- Identify benefit zones, if needed
- Determine services to be provided by the district
- Determine assessment rate and budget
- Determine governance structure
- Draft and review district plan

4. Petition Drive

- Prepare, distribute and collect petitions for formation
- Submit petitions from owners who will pay 50% or more of the assessment to the City Council or Board of Supervisors

5. Initial Hearing

- Prepare Resolution of Intention
- Prepare Notice of Public Meeting/Hearing and Ballot
- Resolution of Intention hearing
- Mail notice and ballot to all owners

6. Public Hearing

- City Council/Board of Supervisors considers any protests presented and tallies ballots cast
- If 50% or more of the ballots cast favor formation, the City Council/Board of Supervisors can adopt Resolution of Formation